

REMARKS

Claims 19-26 were rejected under 35 USC 103(a) as unpatentable over Peffly (U.S. Patent No. 5,985,294) in view of Samain et al. (U.S. Patent No. 6,511,651 B1) and Maurin et al. (U.S. Patent No. 6,403,542 B1). Applicants traverse this rejection.

Applicants have amended independent claim 19 by incorporation of dependent claim 26. The holding polymer in claim 19 of the present invention is specified as a terpolymer formed from three monomers specified as vinyl caprolactam, methacrylamidopropyl dimethylamine and vinylpyrrolidone.

Peffly is concerned with hair styling compositions. Therein is disclosed a great many hair resins including the terpolymer of the present invention. See column 4 (lines 17-18). Hydroxyethyl cellulose is mentioned as an alternative hair holding resin. See column 4 (line 53). Yet, unlike the claimed invention, there is no teaching or suggestion to combine the terpolymer with hydroxyethyl cellulose (HEC).

None of the examples formulates with the terpolymer, and none of the examples save Example III discloses HEC.

The Examiner attempts to utilize Example III as teaching the claimed weight ratio of polymers (a) and (b). For this purpose, the Examiner has selected PVP/VA as the polymer to coordinate with HEC.

Anyone skilled in the art would not consider PVP/VA as substitute for the terpolymer. PVP/VA is a nonionic polymer, while the terpolymer is cationic. See column 4 (line 16 and 46). The reference itself does not equate cationic and nonionic polymers. Secondly, it would not at all be obvious to equate a copolymer to that of a terpolymer.

The Examiner has recognized that Peffly fails to specifically teach the terpolymer of the present invention. Samain was introduced as teaching the claimed terpolymer in the form of the trademark material ACP 1189. Maurin was cited for similar reasons with disclosure of ACP 1189.

Neither Samain nor Maurin disclose nonionic cellulosic hair resins. Most particularly, there is no disclosure in either reference of HEC. Thus, the secondary references actually do not add anything further to Peffly.

A combination of Peffly, in view of Samain and Maurin would not render the instantly claimed invention obvious. Peffly does not disclose or suggest a combination of the claimed terpolymer with that of HEC. There are so many hair holding resins mentioned in Peffly that it would be quite difficult, if not impossible for the skilled chemist to specifically know and then select the terpolymer and HEC. Applicants have demonstrated that this combination of materials provides special styling benefits. See the comparative experiments at pages 22-23. Neither does Peffly disclose the claimed ratio of terpolymer to HEC. Only in Example III is there mention of one of the two resins. Yet in this example HEC is not coupled with a cationic resin but rather with a nonionic one. Those skilled in the art would not be taught to substitute the cationic terpolymer for that of the nonionic PVP/VA. With respect to the claimed ratio of resins, applicants consider the Examiner has not presented a prima facie case of obviousness.

Samain and Maurin, as secondary references add nothing further to Peffly. These do not disclose HEC nor provide any teaching or direction with respect to the claimed ratios.

Claims 27 and 28 were rejected under 35 USC §103(a) as unpatentable over Peffly, Samain and Maurin in further view of Mizutani et al. (U.S. Patent No. 4,411,891). Applicants traverse this rejection.



Peffly is insufficient in several respects. The primary reference does not mention dextran. Neither is there any mention of the claimed ratio of polymer to dextran.

Similarly, Samain and Maurin are defective. No mention is made of dextran or the claimed ratio of resins.

Mizutani was cited for disclosing cationic dextran derivatives. The present claims refer to a nonionic rather than cationic dextran. In the event this was not evident in claim 27, applicants expressly identify "a dextran" as a nonionic dextran. Support for that amendment is found at page 9 (lines 1 and 4).

A combination of Peffly, Samain, Maurin and Mizutani would not render the instant invention obvious. None of the references disclose nonionic dextran. For this reason alone, the Examiner has failed to present a prima facie case of obviousness.

Even if dextran were known from these references, there is no suggestion to combine dextran with the hair holding polymer (a) of the present invention. Neither is there any disclosure concerning the claimed ratio of (a) to (b). For all these reasons, those skilled in the art would not arrive at the present invention from consideration of the combined references.

In view of the foregoing amendments and comments, applicants request the Examiner to reconsider the rejection and allow the claims.

Respectfully submitted,

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